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09/954,775	09/18/2001	Michael Orlando Cimini	13DV13971	7795

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EXAMINER
VAN DOREN, BETH

ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
12/28/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

PTOL-90A (Rev. 04/07)

	Application No.	**Applicant(s)**	
	09/954,775	CIMINI ET AL.	
Office Action Summary	**Examiner**	**Art Unit**	
	Beth Van Doren	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _17 October 2007_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1 and 3-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1 and 3-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 10/17/2007 has been entered.

Claims 1, 9, and 14-15 have been amended. Claim 2 has been canceled. Claims 1 and 3-

20 are pending.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
subject matter which the applicant regards as his invention.

3.   Claims 1 and 3-20 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Claim 1 recites in the final limitation "wherein the at least one suggestion for each

category of the production process is displayed one category at a time based on a user selection

of the category for which to display the at least one suggestion". However, the claim also recites

"at least one category". Therefore, it is unclear if there is only one category how suggestions

would be displayed one category at a time. Further, it is unclear as to what happens if only one

suggestion is displayed (i.e. it is not clear what happens to the "at a time" portion). Finally, if

only one category is an option, it is unclear how a user would select a category. Clarification is

required.

Claims 3-8 depend from claim 1 and therefore contain the same deficiencies.

Claims 9 and 15 recite substantially similar limitations to the ones discussed above with

respect to claim 1 and therefore are rejected for the same reasons set forth above with respect to

claim 1.

Claims 10-20 depend from claims 9 and 15 and therefore contain the same deficiencies.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1 and 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers

et al. (U.S. 6,604,084) in view of Suzuki et al. (U.S. 6,625,511).

As per claim 1, Powers et al. discloses a system for evaluating process performance, said

system comprising:

a device (See figure 1 and column 2, line 58-column 3, line 13, wherein a client device is

disclosed); and

a server connected to said device and configured to receive, from a user via said device,

information pertaining to process performance evaluation categories selected by the user (See

column 9, lines 47-64, column 11, lines 32-60, wherein the evaluation categories are set up by a user), said server further configured to:

receive process production capability information data using a computer (See figure 1, column 2, lines 58-67, and column 3, lines 14-24);

compile the received information (See column 2, lines 1-12, column 3, lines 39-55, column 4, lines 20-40, column 9, lines 14-32, which compile received information);

display to the user information related to the production process (See column 2, lines 1-12, column 3, lines 39-55, column 4, lines 20-40, and column 5, lines 25-28, wherein information is displayed to a user);

compare the received information in the form of answers to respective questions to reference information in the form of answers to questions developed to encompass an expected range of answers from the users responding to the questions, wherein each question is related to at least one category of the production process (See column 4, lines 25-40, column 5, lines 10-28, column 9, lines 7-18 and 28-47, column 11, line 49-column 12, line 10 and lines 44-51, which discloses processing the received information against reference information. The received information is in the form of answers to questions stored in the system. These answers are compared against all possible answers to the questions. See column 1, lines 34-46 and 58-65, column 3, lines 43-clumn 4, line 25, column 8, line 61-column 9, line 20 and lines 48-64, and column 13, lines 32-45, which discloses the relationship of questions to performance areas and categories); and

display the results of the compared information to the user via said device wherein the results include a numerical score representing a relative capability of the process being evaluated

to perform a desired function (See column 2, lines 1-12 and 50-60, column 3, lines 39-55,

column 4, lines 20-40, and column 5, lines 25-28, wherein results information is displayed to a

user. These results concern the evaluation of productivity and quality of a process); and

display information useful in determining the overall performance and identifying ways

to improve performance (See column 4, lines 25-35),

wherein the results and information are sortable based on filters associated with

categories of the process (See column 4, lines 25-35, column 5, lines 10-30, column 6, line 66-

column 7, line 11, and column 13, lines 25-50 and 63-67);

wherein the at least one suggestion is based on the received information in the form of

answers to respective questions (See column 4, lines 25-40, column 5, lines 10-28, column 9,

lines 7-18 and 28-47, column 11, line 49-column 12, line 10 and lines 44-51, which discloses

processing the received information against reference information. The received information is

in the form of answers to questions stored in the system);

and wherein the at least one category results and information is displayed for each

category of the production process based on user selection of that category for which to display

the at least one category results and information (See column 3, lines 43-column 4, line 25,

column 8, line 61-67, column 11, lines 49-60, and column 13, lines 32-45, disclosing the

relationship of questions to performance areas and categories, wherein the completed evaluations

are output and displayed to the user, and each category is specified in a separate table). Further,

in the broadest reasonable interpretation, only one category is required and thus one category is

displayed one at a time.

However, Powers et al. does not expressly disclose that the desired function is a

manufacturing function or displaying at least one suggestion for improving performance,

wherein the suggestions are sortable.

Suzuki et al. discloses manufacturing functions and displaying at least one suggestion for

improving performance, wherein the suggestions are sortable (See figure 11, column 7, lines 60-

67, column 12, lines 30-40 and 60-67, column 19, lines 15-35, column 20, lines 55-63, which

discloses evaluating a manufacturing process and/or function and displaying point by point

suggestions for improvement. See specifically column 20, lines 54-67, which discloses sorting

the results and displaying improvements in descending order).

Powers et al. discloses a performance evaluation system that uses questions and

production associated with performance areas to generate quality and performance reports

concerning an individual, group, process, or other suitable type of item or operation. Powers et

al. specifically discloses that the results and information displayed are sortable based on filters

associated with categories of the process. Manufacturing functions are a type of process or

operation. Suzuki et al. discloses evaluating manufacturing processes and/or functions and

displaying suggestions for improvement via a computer display, wherein improvements are

displayed sorted in descending order. It would have been obvious to one of ordinary skill in the

art at the time of the invention to use the performance evaluation system of Powers et al. in the

manufacturing field in order to more efficiently generate evaluation data and reports in the

manufacturing industry through application of an automated system. Powers et al. discusses the

ability of the system to allow an enterprise to set up the performance evaluation system to fit the

organizational structure of that specific enterprise, thus making the tool customizable to any

enterprise and enterprise situation. See column 2, lines 58-64, column 5, lines 10-20 and line 65-column 6, line 5. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to display suggestions to the user based on the performance evaluation performed by Powers et al. in order to more efficiently improve the quality of the manufactured items by reducing the likelihood of errors associated with manufacturing. See Suzuki et al., column 3, lines 20-25, 37-45, and 60-67.

As per claim 3, Powers et al. discloses wherein said server is further configured to receive information regarding at least one of a planning, shop practices, and operator skill (See column 9, lines 5-30, which discloses receiving information regarding operator skill).

As per claim 4, Powers et al. discloses wherein said server is further configured to receive information regarding at least one of a complexity, conditions, control, error proofing, measurement, and process (See column 2, lines 50-60, column 3, lines 45-60, which discloses productivity analysis of the process).

As per claim 5, Powers et al. discloses wherein said server further configured to receive information including a numerical score that expresses a relative capability of a process performance (See column 1, line57-column 2, line 12 and lines 51-57, column 3, lines 45-60, column 4, lines 26-36, column 9, lines 48-55, and column 13, lines 20-35, wherein information is received that expresses a relative capability of a process performance). However, Powers does not expressly disclose that this process performance is performing a desired manufacturing function.

Powers et al. discloses a performance evaluation system that utilizes productivity and quality data. Powers et al. specifically discloses that the performance evaluation system is used

to evaluate an individual, a group, a process, or other suitable types of operation. See column 2,

lines 50-60, and column 5, lines 45-52. Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention to receive information regarding the process

of a manufacturing function in order to more efficiently perform a performance evaluation this

process by efficiently communicating with users of a network environment that have input

regarding the process. See column 1, lines 35-47, and column 2, lines 1-12, which discuss the

benefits of such an automated system.

As per claim 6, Powers et al. discloses wherein said server is further configured to:

assign received information a weighted value (See column 9, lines 10-30, and column 11,

line 62-column 12, line 25, wherein a weighted value is assigned received information);

sum received information weights (See column 9, lines 10-30, column 10, lines 1-12, and

column 11, line 62-column 12, line 25, wherein received information is summed);

evaluate weighted summed data (See column 9, lines 10-30, column 10, lines 1-12, and

column 11, line 62-column 12, line 25, wherein the data is evaluated); and

display results in a ranked order based on weighted data (See column 2, lines 1-12,

column 3, lines 39-55, column 4, lines 20-40, and column 5, lines 25-28, wherein results are

displayed, the results based on the weights).

As per claim 7, Powers et al. teaches wherein said device is configured to be a server for

a network of customer devices (See figure 1 and column 2, line 58-column 3, line 22, column 5,

lines 25-45, wherein the device serves to other devises).

As per claim 8, Powers et al. discloses wherein said server and said device are connected via a network (See figure 1, column 3, lines 1-20, column 5, lines 39-45, wherein the server and device are connected via a network).

As per claim 9, Powers et al. teaches a method for evaluating performance capabilities of a production process by operating a system including a server and at least one device connected to the server, said method comprising:

Defining, using a computer, area categories based on an evaluation of the production performance capabilities of at least one of the process and the part being evaluated (See figure 5A-B, column 1, line 58-column 2, line 5 and lines 50-60, column 3, lines 45-60, column 8, line 60-column 9, line 30 and lines 45-60, wherein evaluation areas are established to evaluate performance capabilities of the process); and

receiving, using the computer, information relevant to the capabilities of the production process within the evaluation categories (See column 2, lines 1-12 and 50-60, column 5, lines 25-30, column 9, wherein information is received).

Powers et al. and Suzuki et al. further teaches the remaining elements, which are equivalent to limitations in claim 1. Therefore, these elements are rejected using the same art and rationale set forth above in the rejection of claim 1.

As per claim 10, Powers et al. discloses assigning a weight factor to information received within each evaluation category (See column 9, lines 10-30, column 10, lines 1-12, and column 11, line 62-column 12, line 25, which disclose weight factors).

Claim 11 recites substantially similar elements to claim 5 and is therefore rejected using the same art and rational as set forth above.

As per claim 12, Powers et al. discloses wherein displaying the results further comprises

numerically ranking the production process evaluation areas based on the results (See column 2,

lines 1-12, column 3, lines 39-55, column 4, lines 20-40, and column 5, lines 25-28, wherein

results are displayed in a numerically ordered ranking).

As per claim 13, Powers et al. teaches wherein displaying the results further comprises

displaying the results in a format that facilitates comparisons between a plurality of production

process evaluation areas (See column 3, line 43-column 4, line 15 and lines 25-35, column 5,

lines 25-30, wherein the results are shown by date, time, user, hierarchical level, etc.).

As per claim 14, Powers et al. teaches wherein defining evaluation area categories further

comprises selecting at least one evaluation area category that represents at least one of

production complexity, conditions, control, error proofing, measurement, operator skill,

planning, process, and shop practices (See figures 5A-B, column 2, lines 50-60, column 3, lines

45-60, column 9, lines 5-30, which disclose at least operator skill and productivity analysis).

As per claim 15, Powers et al. teaches a method for evaluating performance of a

production process using a network connecting a plurality of users, the network including a

server and a plurality of user display devices, said method comprising:

receiving from the users using a computer, information concerning evaluation categories

relevant to the production process (See column 2, lines 1-12 and 50-60, column 5, lines 10-27,

column 9, lines 20-45, which disclose soliciting information from users);

assigning each evaluation category at least one weighted factor that normalizes the

received information with respect to the received information's relative contribution to a process

capability improvement (See column 9, lines 10-30, column 10, lines 1-12, and column 11, line

62-column 12, line 25, which disclose weight factors that regulate each questions worth in the overall score);

Powers et al. and Suzuki et al. further teaches the remaining elements, which are equivalent to limitations in claim 1. Therefore, these elements are rejected using the same art and rationale set forth above in the rejection of claim 1.

Claims 16, 17, 19, and 20 recite substantially similar elements as claims 13, 14, 5, and 12, respectively, and are therefore rejected using the same art and rational as set forth above.

As per claim 18, Powers et al. discloses wherein soliciting from the users information concerning evaluation categories further comprises soliciting information from the users via at least one of a survey, radio push-buttons, and pull-down menu (See column 9, lines 20-45, which disclose at least radio buttons and drop-down lists).

Response to Arguments

5.   Applicant's arguments with regards to the rejections based on Powers et al. (U.S. 6,604,084) in view of Suzuki et al. (U.S. 6,625,511) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that neither Powers et al. nor Suzuki et al. teach or suggest (1) a system for evaluating process performance, wherein the system includes a server configured to receive information pertaining to process performance evaluation categories selected by a user or (2) a server configured to display at least one suggestion for each category of the production process, displayed one category at a time based on the user selection of the category for which to display the at least one suggestion.

In response to argument (1), Examiner respectfully disagrees. Looking at claim 1, claim 1 recites "a server connected to a device and configured to receive, from a user via said device,

information pertaining to process performance categories selected by the user, said server further

configured to". Thus, in essence, the limitation is stating that server receives information

relevant to categories selected by a user. This limitation, in its broadest reasonable

interpretation, can be read as either the information or the categories are selected by the user.

Looking to the claim for context, the limitations then state that information is received, compiled

and compared, results and suggestions are displayed, wherein categories are displayed one at a

time based on a user selection of the category. Therefore, it seems that this user selection is not

referring to the one in the server limitation, and thus it makes sense that the user selects the

information that they are going to send to the system. Powers et al. actually teaches both ideas.

See column 9, lines 47-64, column 11, lines 32-60, wherein the evaluation categories are set up

by a user and then data is selected to be imported and associated with the evaluation categories.

Examiner further notes the "configured to" language utilized. Claim scope is not always

limited by such claim language, which suggests or makes optional but does not require steps to

be performed or that does not limit a claim to a particular structure. Such language raises a

question regarding the limiting effect of the language in a claim. Examiner respectfully suggests

updating the claim language to make it clear that the steps limit the claim scope.

In response to argument (2), Examiner respectfully disagrees. Powers et al. discloses

displaying information useful in determining the overall performance and identifying ways to

improve performance. At least one suggestion is displayed for each category based on user

selecting that category as one to be included/displayed in the analysis. See column 3, lines 43-

column 4, line 25, column 5, lines 10-30, column 6, line 66-column 7, line 11, and column 13,

lines 25-50 and 63-67, which discloses identifying ways to improve performance and sorting

output based on categories and performance areas. Powers et al. specifically discloses the relationship of questions to performance areas and categories and that when evaluations are completed, the results are output using the performance area and category. Further, each category is specified in a separate table. See also column 8, line 61-67, and column 11, lines 49-60. Examiner expressly stated that Powers et al. does not disclose that the desired function is a manufacturing function or displaying at least one suggestion for improving performance.

Suzuki et al. discloses manufacturing functions and displaying at least one suggestion for improving performance in figure 11, column 7, lines 60-67, column 12, lines 30-40 and 60-67, column 19, lines 15-35, column 20, lines 55-63. A manufacturing process and/or function is evaluated and point by point suggestions are displayed to aide in improvement. See specifically column 20, lines 54-67, which discloses sorting the results and displaying improvements in descending order. Examiner notes that the fact that the process is a manufacturing function is intended use, which does not result in a structural difference between the claimed invention and the prior art, and thus does not patentably distinguish the claimed invention from the prior art.

Further, examiner notes that these are new limitations added by amendment. They are subject to a 112, second paragraph rejection, as set forth above.

Thus, the combination of Powers et al. in view of Suzuki et al. does teach and suggest each and every limitation of the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Beth Van Doren whose telephone number is 571-272-6737. The

examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bvd
December 19, 2007

BETH VAN DOREN
PRIMARY EXAMINER